

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA ex rel.
AHMED BASHIR,

Plaintiff,

v.

THE BOEING COMPANY et al.,

Defendants.

CASE NO. 2:19-CV-00600-LK

ORDER UNSEALING CASE AND
DIRECTING SERVICE OF
SECOND AMENDED
COMPLAINT

This matter comes before the Court on the Government's Third Notice of Election to Decline Intervention. Dkt. No. 99. Because the Government has declined to intervene in this *qui tam* action, 31 U.S.C. § 3730(b)(4)(B), and at least 60 days have elapsed since Plaintiff-Relator Ahmed Bashir filed his Second Amended Complaint, *id.* § 3730(b)(2), the Court orders the following:

1. Relator's Second Amended Complaint shall be unsealed;
2. Relator shall serve a copy of the Second Amended Complaint, this Order, and the Government's Third Notice of Election to Decline Intervention on Defendants;

1 3. the parties shall serve all pleadings and motions filed in this action, including
2 supporting memoranda, upon the Government, and the Government may order any deposition
3 transcripts at its own expense, *id.* § 3730(c)(3);

4 4. the Government may seek dismissal of Relator's action or claims notwithstanding
5 Relator's objections if Relator has been notified by the Government of its motion and the Court
6 has provided Relator with an opportunity for a hearing on the motion, *id.* § 3730(c)(2)(A);

7 5. the Government may settle the action with Defendants notwithstanding Relator's
8 objections if the Court determines, after a hearing, that the proposed settlement is fair, adequate,
9 and reasonable under all the circumstances, *id.* § 3730(c)(2)(B);

10 6. the Government may, for good cause shown, intervene in this action at any time,
11 *id.* § 3730(c)(3);

12 7. the parties shall serve all notices of appeal on the Government; and

13 8. all orders of the Court shall be sent to the Government's counsel of record.

14 In its notice declining to intervene, the Government "respectfully refers the Court to 31
15 U.S.C. § 3730(b)(1)" and "requests that should either Relator or Defendant(s) propose that this
16 action be dismissed, settled, or otherwise discontinued, this Court provide the United States with
17 notice and an opportunity to be heard before ruling or granting its approval." Dkt. No. 99 at 2.
18 Section 3730(b)(1) provides that a *qui tam* suit "may be dismissed only if the court and the
19 Attorney General give written consent to the dismissal and their reasons for consenting." However,
20 Section 3730(b)(1)'s mandatory consent provision does not apply to court-ordered or other
21 involuntary dismissals. *United States ex rel. Killingsworth v. Northrop Corp.*, 25 F.3d 715, 722
22 n.5 (9th Cir. 1994); *accord United States ex rel. Mobin v. Desert Constr.*, 87 F.3d 1325, 1996 WL
23 328803, at *4 (9th Cir. 1996). With respect to voluntary dismissals and settlements, the mandatory
24 consent provision applies only during Section 3730(b)(2)'s initial sixty-day intervention period

1 plus any good-cause extension under subsection (b)(3). *United States v. Northrop Corp.*, 59 F.3d
2 953, 959 (9th Cir. 1995). This window has now closed. Thus, absent subsection (c)(3) intervention,
3 the Government's approval of any future settlement is no longer mandatory. Nor are the parties
4 required to obtain the Government's consent before voluntarily dismissing this action. The
5 Government retains the right to object to a proposed settlement only upon a showing of good cause.
6 *See id.*; *Killingsworth*, 25 F.3d at 723–24; *U.S. ex rel. Kelly v. Boeing Co.*, 9 F.3d 743, 753–54
7 (9th Cir. 1993). The Court will therefore provide the Government with an opportunity to show
8 good cause (as applicable) and be heard should either Relator or Defendant(s) propose that this
9 action be dismissed, settled, or otherwise discontinued.¹

10 Dated this 31st day of January, 2024.

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12 Lauren King
13 United States District Judge
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24 ¹ As in prior orders, *see, e.g.*, Dkt. No. 74 at 2, this Order provides a mechanism for notice to the Government by
requiring the parties to serve all pleadings and motions on the Government.